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**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

WILLIAM E. DUNCAN,

Plaintiff - Appellant,

v.

JOSEPH LEHMAN,

Defendant - Appellee.

No. 06-35561

D.C. No. CV-04-05633-RBL

MEMORANDUM^{*}

Appeal from the United States District Court
for the Western District of Washington
Ronald B. Leighton, District Judge, Presiding

Submitted November 13, 2007^{**}

Before: TROTT, W. FLETCHER, and CALLAHAN, Circuit Judges.

Former Washington state prisoner William E. Duncan appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging defendant violated his due process rights by failing to release him into community

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

custody. We have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Sorrels v. McKee*, 290 F.3d 965, 969 (9th Cir. 2002), and we affirm.

Even if Duncan had a liberty interest in community custody placement giving rise to due process protections, Duncan failed to show actions taken pursuant to his 2003 application for release violated clearly established law at the time of the request. *See id.* at 970-71 (discussing qualified immunity defense requirements); *see also In re Liptrap*, 111 P.3d 1227 (Wash. App. 2005). Accordingly, the district court properly granted summary judgment. *See Sorrels*, 290 F.3d at 971-72.

Duncan's remaining contentions are unpersuasive.

AFFIRMED.